



Farm Laborers Fair Labor Practices Act

FALL 2019

On July 17, 2019, Governor Cuomo signed the Farm Workers Bill into law and established the Farm Laborers Fair Labor Practices Act, which takes effect on January 1, 2020. Under this law, there are important labor requirements for farm employers, owners, and operators, including changes regarding requirements for workers' compensation, disability benefits, and Paid Family Leave coverage.

Workers' Compensation

What has changed?

- **Coverage is now mandatory:** All employers are required to provide workers' compensation coverage for their employees, regardless of annual payroll. Previously employers with less than \$1,200 in annual payroll were exempt.
- **Posters must be displayed in English and Spanish:** Employers are required to post the mandatory workers' compensation notice of compliance poster in both English and Spanish. Employers get these posters from their insurance carrier, or, if self-insured, from the Workers' Compensation Board by emailing Certificates@wcb.ny.gov.
- **New notice requirements for farm contractors:** Employers should be aware, and make sure their farm contractors are aware, that upon receiving notice of an injury or illness, farm contractors must notify the employer, owner or operator of the farm where the injury occurred.

Note: All employers are prohibited from discriminating against employees for requesting workers' compensation.

What is workers' compensation? Workers' compensation provides partial wage replacement and/or medical care when an employee has an on-the-job injury or illness.

How do I obtain workers' compensation coverage? You may purchase a workers' compensation insurance policy from one of the more than 200 private insurers authorized by the Department of Financial Services (DFS). You may also purchase a policy from the State Insurance Fund, a public insurer in New York State, by calling (888) 875-5790. Self-insurance may also be an option; visit the self-insured employers section of the Workers' Compensation Board website for more information.

Who pays for workers' compensation coverage? Employers are responsible for paying for workers' compensation coverage; you cannot take any deductions from employees to pay for coverage.

Disability Benefits and Paid Family Leave insurance

What has changed?

- Farm employers, owners and operators are required to have disability benefits (DB) and Paid Family Leave (PFL) coverage for eligible farm laborers.

Note: All employers are prohibited from discriminating against employees for requesting DB or PFL.

What are DB and PFL? DB and PFL are types of insurance coverage that most employers in New York State are required to provide to their employees. Both provide partial wage replacement when an employee must be out of work; however, DB is used for an employee's own care, while PFL is used to care for a family member.

Disability Benefits and Paid Family Leave insurance (cont'd)

What responsibilities do farm employers, owners and operators have for DB and PFL as of January 1, 2020? PFL is generally included as a rider on a DB policy. Employer responsibilities depend on whether the employer already has a DB and PFL policy in place for other employees.

RESPONSIBILITIES AS OF JANUARY 1, 2020		
	If you already have a DB/PFL policy	If you do not have a DB/PFL policy
How does this affect my farm business?	You must now include eligible farm laborers on your policy.	You are required to obtain coverage for any employees who have been in your employment for 30 days.
How do I comply?	Call your insurer and let them know that you have additional employees to include on your policy.	You must either purchase a DB/PFL policy from an insurer, or apply to the Workers' Compensation Board to become self-insured for DB/PFL.
When do I have to have the DB/PFL coverage?	You <u>must</u> have the additional coverage in place on January 1, 2020. You should alert your insurer as soon as possible to ensure you are in compliance with the law.	If you have employees as of January 1, 2020, you will be considered a covered employer 30 days after that date. You will then have another four weeks until DB/PFL coverage needs to be in place. If you don't have any employees on January 1, 2020, when you eventually hire them, you will have four weeks from their 30th day of employment to have DB/PFL coverage in place.

How do I obtain DB and PFL coverage? Visit the Paid Family Leave section of the DFS website for the list of insurers that are approved by the DFS to sell DB and PFL insurance in New York, or apply to the Workers' Compensation Board to become self-insured.

What do I need to know about employee qualifications for benefits and deductions for DB and PFL? Employee qualifications for benefits are different for DB and PFL, as are the amounts you can withhold from employees' paychecks to pay for these insurance policies.

FARM EMPLOYEE ELIGIBILITY AND DEDUCTIONS		
	Disability Benefits	Paid Family Leave
When will my employees become eligible to take leave?	Employees become eligible to apply for DB after working for four weeks with the same employer.	Employees become eligible to apply for PFL benefits after working for 26 weeks with the same employer, if they work more than 20 hours per week. If an employee works less than 20 hours per week, they must be with the same employer for 175 days, which do not have to be consecutive.
What if my employees will not work long enough to become eligible to apply for benefits?	All employees must be covered even if they do not work long enough to be eligible for benefits.	If an employee, such as a part-time or seasonal employee, will not work long enough to be eligible for PFL benefits, they may opt out of coverage. Employers must offer a waiver to employees who qualify for one. Employees qualify if they: <ul style="list-style-type: none"> work a regular schedule of less than 20 hours per week, and will not work 175 days in a year; or work a regular schedule of 20 or more hours per week, but won't be in employment for 26 consecutive weeks. When an employee signs a waiver, the employee does not make contributions and is no longer covered for PFL. Employees can revoke their waiver at any time, and a waiver is automatically revoked when the employee no longer qualifies for one due to schedule changes. To print copies of the waiver, go to paidfamilyleave.ny.gov/pfl-waiver-form .
How much can I deduct from an employee's paycheck?	Employers may deduct one-half of 1 percent of an employee's gross wages, up to a maximum of 60 cents per week.	The DFS sets the employee contribution rate each September 1 st for the following year. The payroll deduction is a percentage of an employee's gross wages, up to an annual cap. For more information, see PaidFamilyLeave.ny.gov/cost .

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